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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/274,281	03/22/1999	JAY S. WALKER	WD2-99-006	8188
22927 7590 06/29/2007 WALKER DIGITAL MANAGEMENT, LLC 2 HIGH RIDGE PARK STAMFORD, CT 06905			EXAMINER RIMELL, SAMUEL G	
			ART UNIT 2164	PAPER NUMBER
			MAIL DATE 06/29/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/274,281

Applicant(s)

WALKER ET AL.

Examiner

Sam Rimell

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2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-30 and 70-79 is/are pending in the application.
- 4a) Of the above claim(s) 80-94 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-30, 78 and 79 is/are rejected.
- 7) ☒ Claim(s) 70-77 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
SAM RIMELL  
PRIMARY EXAMINER

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

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Preliminary Note: Claims 80-94 are withdrawn as being addressed to a non-elected invention. Withdrawal is made without traverse. Claims 13-30 and 70-79 are examined on the merits. Examiner concurs that if claim 13 is allowed, then withdrawn claims 80-94 will be reinstated and examined on the merits, provided that they are not amended so as to raise a new basis for restriction.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-30 and 78-79 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13: It is not clear if a relationship exists or does not exist between the “first amount of funds” and the “second amount of funds”. The specification indicates that various relationships exist between the first amount of funds and the second amount of funds, but the claim does not make clear whether the disclosed relationship does exist or does not exist, or what the relationship would be if it does exist.

Claims 14-30: Depend on claim 13.

Claims 78-79: Depend on claim 13. Note that these claims do not clarify whether a relationship exists or does not exist between the first and second amount of funds, and hence the rejection is applied to these dependent claims.

Claims 70-77 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Claims 13-30 and 78-79 would be allowed if written to overcome the rejection under 35 USC 112, second paragraph.

Remarks

Applicant's arguments of January 2, 2007 have been considered, and are relevant to the issues raised herein. Applicant's fundamental argument is that the original specification allows for the first amount of funds to either be related or not related to the second amount of funds, and that the claims are not inconsistent with what the specification permits. In support of this assertion, applicant quotes from page 18 of the original specification, where a controller transmits an aggregate amount to vendors.

However, this quotation merely describes how the funds are transmitted , and does not answer the question of whether the first amount of funds can be related to the second amount of funds.

While the examiner does agree that the specification teaches various relations between the first amount and second amount of funds, examiner does not find any suggestion in the original specification that the two funds can be devoid of relationship. Since the claims do not clearly indicate whether or not such relation exists, and the specification does indicate such relation to exist, the scope of the claim becomes uncertain and ambiguous. See MPEP 2173.03: "Although the terms of a claim may appear to be definite, inconsistency with the specification disclosure or prior art teachings may make an otherwise definite claim take on an unreasonable degree of uncertainty. *In re Cohn*, 438 F.2d 989, 169 USPQ 95 (CCPA 1971); *In re Hammack*, 427 F.2d 1378, 166 USPQ 204 (CCPA 1970)." Also see MPEP 2172.01: "In addition, a claim which fails to interrelate essential elements of the invention as defined by applicant(s) in the

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specification may be rejected under 35 U.S.C. 112, second paragraph, for failure to point out and distinctly claim the invention. See *In re Venezia*, 530 F.2d 956, 189 USPQ 149 (CCPA 1976); *In re Collier*, 397 F.2d 1003, 158 USPQ 266 (CCPA 1968)."

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (571) 272-4084.



Sam Rimell  
Primary Examiner  
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